(3)

97-1153

No.

Supreme Court, U.S.
FILED
FEB 25 1998
CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1997

THE PEOPLE OF THE STATE OF NEW YORK,

Respondent,

vs.

DREW CASS,

Petitioner.

PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS OF THE STATE OF NEW YORK

APPELLANT'S REPLY

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STATEMENT

We wish to call to the Court's attention that it is the position of the County that there was no attempt to withdraw the guilty pleas on the ground that the Court was about to break its plea bargain agreement pursuant to Criminal Procedure Law, Section 220.60, Subd. 3.

The Court may clearly note that based on the annexed copy of the transcript dated February 20, 1996, the Court refused to permit Mr. Cass to withdraw his plea and breached its promise to him even though Mr. Cass had complied with all of the provisions of that promise. In part, as noted on Page 4, the parties stated the following on the record:

> "MR. ROSENBLUM: I can appreciate that. If we could have a conference?
>
> THE COURT: Sure.
>
> MR. ROSENBLUM: Maybe we can conference this. I need to become familiar — can we go off the record?
>
> THE COURT: No. Continue.
>
> MR. ROSENBLUM: I don't know if he is permitted at this point and time to withdraw his plea or not.
>
> THE COURT: No. No, he is not.
>
> MR. ROSENBLUM: Was there a promise of no jail made at the time of the taking of the plea?
>
> THE COURT: Way back when, and I told him if I could, he didn't take anymore time, therefore I told him he was going for thirty days. We discussed that. We bargained for that.
>
> MR. ROSENBLUM: If we could conference this.
>
> THE COURT: Sure."

Based upon the foregoing Appellant's Brief and Reply, the Petition for Certiorari should be granted in all respects.

Dated: Lake Grove, New York
February 24, 1998

Respectfully submitted

GARY W. GRAMER, ESQ.
GARY W. GRAMER & ASSOCIATES
Attorney for Appellant